THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.23326 of 2006

13.11.2006

Between:

Sri Ch.Murali and another.

… Petitioners

AND

The Govt.of A.P.rep.by its Secretary,
And others

… Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.23326 of 2006

ORDER:

The petitioners purchased plot No.5 admeasuring about 488.9 square yards in survey No.74/6 situated at Mahindra Hills, Secunderabad. The sale deed executed in their favour was presented before the registering authority – the third respondent herein; which was kept pending for registration as P.No.62/2006. The petitioners were informed that in view of issuance of G.O.Ms.No.365, dated 30.05.2000, by the Government in purported exercise of power under Section 22-A of the Registration Act, 1908 (for short 'the Act'), as amended by the Registration Act (Andhra Pradesh Amendment) Act, 1999, the document presented by them cannot be registered, and the same is kept pending. Aggrieved by the action of the third respondent in not releasing the sale deed after due registration, the present writ petition is filed.

In **State of Rajasthan v Basant Nahata**[1], the Supreme Court struck down the provision in the Registration Act as amended by the State of Rajasthan as *ultra vires*. Following the same, a Division Bench of this Court in its judgment dated 07.12.2005 in W.P.Nos.14099 of 2003 and batch struck down Section 22-A of the Act as applicable in State of Andhra Pradesh. It is also brought to the notice of this Court that Special Leave Petition filed by the State Government against the said judgment was also dismissed by the Supreme Court on 11.8.2006. Therefore, the impugned action cannot be sustained. It is also brought to the notice of this Court that this Court

by common order dated 22.06.2006 in W.P.Nos.6925 of 2000 and batch, while allowing the Writ Petitions, has already quashed G.O.Ms.No.365, dated 30.05.2000.

Following the judgment of the Division Bench, this writ petition is disposed of. As and when the documents are presented by the petitioners, the Registering Authority shall accept the same for registration and if for any reasons, the same cannot be registered, record and furnish the reasons. If the petitioners are aggrieved by the order of the Registering Authority, it shall be open to them to file appeal under Section 72 of the Act before the District Registrar. If the District Registrar i.e., the Appellate Authority declines to give direction to the Registering Authority, the aggrieved persons have to file a suit under Section 77 of the Act.

However, having regard to the submission of the learned Assistant Government Pleader for Revenue (General-T) that the Government filed a Land Grabbing case before the Special Court constituted under the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982, which is pending, this Court observes that it shall be open to the District Collector, Hyderabad, and other revenue officials to approach the Special Court and obtain appropriate orders against the petitioners, if so advised.

The writ petition, subject to the above observations, is accordingly disposed of. No costs.

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November 13, 2006. (**V.V.S.RAO, J**)

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[1] (2005) 12 SCC 77 = 2005 AIR SCW 4456